

08-011

1 IN THE DISTRICT COURT OF LINCOLN COUNTY, NEBRASKA
2 STATE OF NEBRASKA,)
3 Plaintiff,) Case No. CR07-193
4 vs.)
5 TERRY BALDWIN,) BILL OF EXCEPTIONS
6 Defendant.) Volume 1 of 1
(Pgs. 1-31, incl.)
7 Proceedings held before the HONORABLE DONALD
8 E. ROWLANDS, District Judge, on October 1, 2007,
9 October 2, 2007, and December 3, 2007, in the District
10 Courtroom, Third Floor, Lincoln County Courthouse,
11 North Platte, Nebraska.
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NEBRASKA SUPREME COURT
COURT OF APPEALS

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Debra McCarthy
CLERK OF DISTRICT COURT

A P P E A R A N C E S

For the State: Rebecca R. Harling, Chief
Deputy County Attorney
Lincoln County Courthouse
North Platte, NE 69101

For the Defendant: Amanda Speichert
Public Defender's Office
P. O. Box 906
North Platte, NE 69103-0906

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C E R T I F I C A T E

[illegible]

I, Colleen J. White, Official Court Reporter in the District Court of Nebraska for the Eleventh Judicial District, do hereby certify that the within and following bill of exceptions is correct and complete and contains all matters required to be included pursuant to the Order of the Court filed on December 13, 2007, and the rules of the Supreme Court of the State of Nebraska; that said bill of exceptions consists of:

Volume 1 - Proceedings (Pgs. 1-31, incl.)

that the cost of said bill of exceptions is \$85.25, an amount permitted to be charged by Section 25-1140.09, Reissue 1989, as amended.

Dated this 19th of December, 2007.

Colleen J. White RPR
Official Court Reporter

COLLEEN J. WHITE, OCR, RPR
LINCOLN COUNTY COURTHOUSE, P. O. BOX 1616
NORTH PLATTE, NEBRASKA 69103-1616

I N D E X

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HEARING OF DECEMBER 3, 2007

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COLLEEN J. WHITE, OCR, RPR

LINCOLN COUNTY COURTHOUSE, P. O. BOX 1616

NORTH PLATTE, NEBRASKA 69103-1616

1 (The following proceedings were held on the
2 1st day of October, 2007, in open court:)

3 THE COURT: State of Nebraska versus Terry
4 Baldwin, CR07-193. The State, again, will be
5 represented by County Attorney, Jeff Meyer; Chief
6 Deputy County Attorney, Rebecca Harling; and Deputy
7 County Attorney, Todd Engleman. The defendant is
8 present and represented by Amanda Speichert.

9 Ms. Speichert, what's going to be your
10 intended plea?

11 MS. SPEICHERT: Not guilty, Your Honor.

12 THE COURT: Your true and correct name is
13 Terry Baldwin, B-a-l-d-w-i-n?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: What is your age?

16 THE DEFENDANT: 36.

17 THE COURT: Mr. Baldwin, the State has
18 charged you with two counts of first degree sexual
19 assault of a child. Both of those would be Class II
20 felonies. Do you understand the charges?

21 THE DEFENDANT: Yes.

22 THE COURT: Would you like those charges read
23 to you by the County Attorney's Office, or would you
24 waive a formal reading?

25 THE DEFENDANT: Waive.

1 THE COURT: As with each of the prior
2 defendants here this afternoon, you can wait 24 hours
3 before entering a plea in this case, or you may waive
4 that right. Do you wish to waive that right?

5 THE DEFENDANT: Yes.

6 THE COURT: And did you previously
7 voluntarily waive a preliminary hearing in front
8 County Judge Kent Turnbull on August 9th of 2007?

9 THE DEFENDANT: Yes.

10 THE COURT: To both charges, how do you wish
11 to plead, guilty or not guilty?

12 THE DEFENDANT: Not guilty.

13 THE COURT: And Ms. Speichert, how would you
14 like this scheduled?

15 MS. SPEICHERT: Well, Your Honor, can we
16 approach the bench?

17 THE COURT: Yes.

18 (Brief discussion was held off the record.)

19 THE COURT: All right. Mr. Baldwin, your
20 attorney and the County Attorney's Office have advised
21 me that they are very close to perhaps reaching a
22 settlement in this case, although it is dependent upon
23 talking to your federal public defender. As I
24 understand it, you have federal charges pending
25 against you as well, so I'm going to order that you be

1 held here for at least the next two days, through
2 Wednesday, October 3rd, at 5 p.m.

3 If your attorneys can reach an agreement with
4 the federal authorities and with the Lincoln County
5 Attorney's Office, then we can perhaps take a plea
6 either tomorrow or Wednesday. So we won't set a trial
7 date at this point, and I'll just have the bailiff put
8 the matter back on the calendar for some time in the
9 next two days. We will work you in, if that can be
10 arranged.

11 MS. HARLING: Could we set it for Wednesday
12 noon?

13 MS. SPEICHERT: There is no way we can do it
14 over the noon hour.

15 MS. HARLING: How about Tuesday?

16 THE COURT: We have a 1:30. Could you do it
17 at 12 or 1 tomorrow?

18 MS. SPEICHERT: Any time tomorrow.

19 THE COURT: Let's have the bailiff put the
20 matter back on at 1:00 tomorrow and see if we can
21 handle the matter then.

22 Mr. Baldwin, your attorney will advise you
23 what she learns from your federal public defender
24 after she and Ms. Harling have a telephone conference
25 later this afternoon. I'll remand you back to the

1 custody of the Sheriff's Office.

2 (End of proceedings.)

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COLLEEN J. WHITE, OCR, RPR
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NORTH PLATTE, NEBRASKA 69103-1616

1 (The following proceedings were held on the
2 2nd day of October, 2007, in open court:)

3 THE COURT: Good afternoon. The next case
4 that is ready for hearing is State of Nebraska versus
5 Terry Baldwin, Case CR07-193. The record will reflect
6 that the State appears through Chief Deputy County
7 Attorney, Rebecca Harling. The defendant is present
8 in person and represented by Amanda Speichert.

9 Ms. Speichert, the Court has been informed
10 that you and the County Attorney's Office have reached
11 an agreement. Did you wish to state that agreement
12 for the record?

13 MS. SPEICHERT: That's correct, Your Honor.
14 At this time we are going to be entering a plea of
15 guilty to Count 1. They will be dismissing Count 2.

16 THE COURT: Ms. Harling, is that your
17 understanding of the agreement?

18 MS. HARLING: It is.

19 THE COURT: And has the State agreed to make
20 any type of a recommendation at sentencing?

21 MS. HARLING: No.

22 THE COURT: Your true and correct name is
23 Terry Baldwin, and your last name is spelled
24 B-a-l-d-w-i-n; is that correct?

25 THE DEFENDANT: Yes.

1 THE COURT: You are the same person who was
2 in this court yesterday; is that right?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Baldwin, the State filed an
5 Information against you charging you with two counts
6 of first degree sexual assault of a child. Each of
7 those are Class II felonies. It's my understanding
8 that the State is going to dismiss Count 2 upon your
9 entering a plea to Count 1. Is that your
10 understanding of the agreement?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand that the
13 Court is not bound to any particular sentence by
14 virtue of the agreement?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Please listen then
17 while the County Attorney reads the Information, Count
18 1 only.

19 (The Amended Information was read in open
20 court.)

21 THE COURT: Mr. Baldwin, did you hear the
22 Information as read to you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Did you understand it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Before accepting any plea, I want
2 to make sure that you understand a number of things.
3 First of all, a Class II felony carries a maximum of
4 50 years in prison. The minimum penalty is one year
5 in prison. Additionally, you will be ordered to
6 register as a convicted sex offender for a period of
7 at least ten years following your release from any
8 incarceration. Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: You are entitled to a speedy and
11 public trial by a 12-person jury. The State is
12 required to prove your guilt to the unanimous
13 satisfaction of that jury beyond a reasonable doubt.
14 Or if you wish, you can waive a jury trial and try the
15 case to the Court.

16 In either event, the State is required to
17 prove your guilt beyond a reasonable doubt. You are
18 presumed to be innocent, and that is evidence in your
19 favor unless and until the State proves you guilty
20 beyond a reasonable doubt.

21 You have the right to see and confront your
22 accusers, and your attorney will cross-examine on your
23 behalf anyone who testifies against you. You have the
24 right to use the subpoena power of the Court to compel
25 the attendance of any witnesses or the production of

1 any documents that would be favorable to you.

2 You have the right to remain silent, and if
3 you exercise that right, it will not be held against
4 you in any way. Or if you wish, you can give up your
5 right to remain silent and testify in your own
6 defense.

7 However, if you testify in your own defense,
8 you are subject to cross-examination by the County
9 Attorney. And you have the right to be represented
10 throughout these proceedings by an attorney of your
11 own choosing, but if you are indigent, a
12 Court-appointed attorney will represent you throughout
13 the proceedings at no cost. Do you understand all of
14 those rights?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that if you
17 enter a plea today, you will be waiving all of those
18 rights except your right to be represented by your
19 attorney at the time of the sentencing?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: To the charge then in Count 1,
22 first degree sexual assault of a child, a Class II
23 felony, how do you wish to plead?

24 THE DEFENDANT: Guilty.

25 THE COURT: Are you entering your plea of

1 guilty voluntarily of your own free will?

2 THE DEFENDANT: Yes.

3 THE COURT: Has anyone threatened, pressured
4 or coerced you in any way to get you to enter this
5 plea?

6 THE DEFENDANT: No.

7 THE COURT: I know you have been meeting with
8 your attorney since about noon today. It's about
9 1:45. Do you feel you have had an adequate
10 opportunity to confer with your attorney before
11 entering this plea?

12 THE DEFENDANT: Yes.

13 THE COURT: And has anyone promised you what
14 sentence you will receive when you come back to this
15 Court for sentencing?

16 THE DEFENDANT: No.

17 THE COURT: Please listen while Ms. Harling
18 reads a factual basis given to me.

19 MS. HARLING: Your Honor, on or about
20 February 1st, 2003, the defendant, whose date of birth
21 is November 16, 1970, resided with his stepson, whose
22 date of birth is February 21st, 1990. During the time
23 they were residing together in Hershey, Mr. Baldwin
24 had sexual relations with the victim and had sexual
25 penetration of the victim which, in fact, was

1 photographed. All of those events occurred in Lincoln
2 County, Nebraska.

3 THE COURT: And how old was the victim, Ms.
4 Harling?

5 MS. HARLING: I'm sorry, Your Honor. His
6 date of birth is February 21st, 1990, and this
7 occurred in 2003.

8 THE COURT: Mr. Baldwin, you have heard the
9 factual basis as given to me by the County Attorney.
10 Is that substantially what happened?

11 THE DEFENDANT: Yes.

12 THE COURT: I'll accept your plea then. I'll
13 find that the same has been made knowingly,
14 voluntarily and intelligently; that there is a factual
15 basis for the same, and I'll find you guilty under
16 Count 1 of the Information of first degree sexual
17 assault of a child, a Class II felony. I will at this
18 time, pursuant to the plea agreement between counsel,
19 dismiss Count 2.

20 Mr. Baldwin, I'm going to order a Type 1
21 presentence investigation to be completed by District
22 9 Probation. Is it my understanding that you are
23 currently being housed in Dawson County?

24 THE DEFENDANT: That's correct.

25 THE COURT: And you are awaiting trial on

1 federal charges as well?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. I'm going to leave it
4 up to the probation office here if they want to do the
5 presentence investigation from the North Platte
6 office, or whether they want to assign that to the
7 Lexington office, but I will have my bailiff contact
8 the probation office yet this afternoon, advise them
9 to start on the presentence investigation process, and
10 you will probably hear from a probation office either
11 tomorrow or the next day.

12 You should visit with your attorney about
13 whether you wish to make any types of statements for
14 purposes of the presentence investigation.

15 Ms. Harling, you had indicated it would
16 probably take about six weeks for the probation office
17 to complete the presentence investigation?

18 MS. HARLING: Yes. There are victims and
19 witnesses both in this area and in Utah that may be
20 needed to be contacted as well as needing to get some
21 photographic images to the probation office, so I'm
22 guessing it probably will take 45 days.

23 THE COURT: Ms. Speichert, any objection if
24 we would set it about 45 days out?

25 MS. SPEICHERT: No, Your Honor.

1 THE COURT: Off the record to discuss
2 scheduling with the bailiff.

3 (Brief discussion was held off the record.)

4 THE COURT: Back on the record. Mr. Baldwin,
5 we will set your sentencing then for Monday, November
6 19, 2007, at 1:30 p.m., and I will remand you then
7 back to the custody of the Sheriff's Office pending
8 your sentencing.

9 Ms. Speichert, anything further that you wish
10 to do on this case today?

11 MS. SPEICHERT: Not at this time, Your Honor.

12 THE COURT: How about from the State?

13 MS. HARLING: No, Your Honor.

14 THE COURT: I want to thank the Sheriff's
15 Office for coming over and spending several hours with
16 us this afternoon, and you may take the defendant then
17 and transport him back to Lexington.

18 (End of proceedings.)
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1 (The following proceedings were held on the
2 3rd day of December, 2007, in open court:)

3 THE COURT: Good afternoon. The next case
4 that comes on for hearing is State of Nebraska versus
5 Terry Baldwin, Case No. CR07-193. The State will be
6 represented by County Attorney Jeff Meyer and Chief
7 Deputy County Attorney, Rebecca Harling. The
8 defendant is present in person and represented by
9 Amanda Speichert.

10 Before we inquire of the probation office and
11 counsel as to any comments on the case or additions or
12 corrections to the presentence investigation, Mr.
13 Baldwin, you have filed with this Court, I believe,
14 two matters. Number one, you have sent to me a letter
15 dated November 23 of 2007, complaining about the fact
16 that you have not had a lot of contact with your
17 attorney since you were moved to Lexington, Nebraska,
18 for safekeeping in this case.

19 And then secondly, you did on November 28th
20 of 2007 file with this court a motion to dismiss your
21 current counsel and appoint new counsel. First of
22 all, I need to know what your position is today, if
23 you are ready for sentencing, or if you wish the Court
24 to consider removing your current counsel and
25 appointing new counsel to represent you.

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1 THE DEFENDANT: I'll just go on with
2 sentencing, Your Honor.

3 THE COURT: And so you are withdrawing then
4 your motion to dismiss your current counsel and
5 appoint new counsel that was dated November 28th of
6 2007?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. All right. Before we go
9 through the sentencing processes then, let me ask the
10 probation office. Mr. Martin Beyer is here from
11 District 9 Probation. Jan Johannsen completed the
12 presentence investigation. Mr. Beyer, does your
13 office have any additions or corrections to the
14 presentence?

15 MR. BEYER: Not that I'm aware of, Your
16 Honor.

17 THE COURT: The record should reflect that
18 last week, I believe, it was either Wednesday or
19 Thursday, the Court did hold a telephone conference
20 with Ms. Speichert and Ms. Harling. Ms. Speichert had
21 come over to the courthouse and had asked for
22 permission to review the presentence investigation.

23 Upon review of the presentence investigation,
24 Ms. Speichert noticed that there was a deposition
25 included within the presentence investigation. And

1 I'm just going to refer to the initials of JB, and
2 those charges which revolved around that particular
3 individual were dismissed as part of the plea
4 agreement.

5 And that deposition starts in the presentence
6 investigation at page 78 and ran through page 85. Ms.
7 Speichert, you indicated during the telephone
8 conference that you felt that that deposition should
9 be removed from the presentence investigation because
10 it was irrelevant to the case.

11 MS. SPEICHERT: That was correct, Your Honor.

12 THE COURT: And Ms. Harling, I believe at the
13 time of our telephone conference you indicated that
14 you felt Ms. Speichert was correct and that that
15 should be removed from the presentence investigation.

16 MS. HARLING: Yes, Your Honor.

17 THE COURT: I will order then that the
18 deposition of JB be removed from the presentence
19 investigation. And as previously stated, that would
20 be pages 78 through 85, inclusive.

21 During that same telephone conference, Ms.
22 Harling indicated that if that deposition were to be
23 removed from the presentence investigation, she felt
24 that the deposition -- and I will refer again to just
25 the BW, who is the actual victim in this particular

1 case where a plea was entered -- that that deposition
2 should be made part of the presentence investigation;
3 is that correct, Ms. Harling?

4 MS. HARLING: Yes, Your Honor. And just so
5 the Court is aware for probation purposes, probation
6 did not have a copy of that deposition because we
7 didn't either. That deposition was taken months ago,
8 but the court reporter just got it to us in the last
9 week, week and a half, so it was always the intention,
10 I think, of all parties, that that deposition be in
11 the presentence investigation. It's just it took
12 quite a long time to get here.

13 THE COURT: And so you are moving, Ms.
14 Harling, that that be made part of the presentence?

15 MS. HARLING: Yes, Your Honor. And I'm sorry
16 to interrupt. The pictures that were provided to the
17 Court, I guess, I would ask that those be placed in
18 the sealed search warrant file to be, obviously,
19 viewed by the Court and used for purposes of
20 sentencing, but sealed so that they cannot be observed
21 by any other parties.

22 THE COURT: And those were deposition
23 exhibits in the deposition of BW; is that right?

24 MS. HARLING: Correct.

25 THE COURT: And Ms. Speichert, any objection

1 to that procedure?

2 MS. SPEICHERT: No, Your Honor.

3 THE COURT: I will order then that the
4 deposition of BW be included in the presentence
5 investigation, and a copy is currently available, Mr.
6 Beyer, so you can put that back in the presentence
7 investigation.

8 And then the photos which were identified as
9 Exhibits 8, 9, 10, 11, 12, and 7, which were part of
10 that deposition, will be placed into the search
11 warrant file, CR07-4, and placed into an envelope
12 which is sealed and will continue to remain sealed
13 then and not be opened then without further permission
14 of the Court.

15 All right. Ms. Harling, with those
16 insertions then, did your office have any additions or
17 corrections?

18 MS. HARLING: No, Your Honor.

19 THE COURT: And Ms. Speichert, any additions
20 or corrections that you felt should be in the
21 presentence investigation?

22 MS. SPEICHERT: Well, Your Honor, I guess, if
23 I may first address -- my client has asked if he can
24 withdraw his plea just for the purposes of entering a
25 no contest rather than a guilty -- if you remember

1 that situation surrounding the entry of the plea -- so
2 he is just asking the Court if he could do that. And
3 then, I guess, we have an argument on the basis of the
4 presentence investigation.

5 I have spoken to Mr. Baldwin. He informed me
6 he is still concerned with the nature of the
7 questioning and things that occurred during the
8 presentence as to the alleged victim, that he did not
9 plead to, that was the main issue surrounding his
10 investigation, and he felt that the officer who did
11 the presentence investigation was biased and would not
12 question him concerning the case that he pled to. He
13 is not asking to withdraw his plea or anything like
14 that for those purposes except for he is asking the
15 Court to maybe order someone else to do an updated
16 presentence, not being the person that did this one
17 because of that situation.

18 MS. HARLING: Your Honor, could we approach?

19 THE COURT: You may.

20 (Brief discussion was held off the record.)

21 THE COURT: Ms. Harling, for the record, you
22 are objecting to the withdrawal of the guilty plea and
23 entry of a plea of a no contest plea; is that correct?

24 MS. HARLING: Your Honor, at this point,
25 given that Mr. Baldwin at every turn seems to have a

1 problem with the presentence investigation, seems to
2 have a problem with the plea, seems to have a problem
3 with absolutely every part of the process, it's my
4 intention if he doesn't stay with the plea and be
5 sentenced today, that I'll file an Amended Information
6 with 27 counts, nine counts of first degree sexual
7 assault, nine counts of incest and nine counts of
8 felony child abuse; because what he is doing and has
9 been doing all along, is putting the -- continuing to
10 put the victims through a lot of heartache. And at
11 this point, I think he is not sufficiently agreeing to
12 any part of the process and putting Ms. Speichert in
13 an untenable situation as well.

14 THE COURT: Ms. Speichert, any comments?

15 MS. SPEICHERT: I guess, I understand the
16 concerns that the State has; and as you are well
17 aware, this has been a very difficult process. I know
18 Mr. Baldwin has concerns. We have voiced those
19 concerns in the presentence investigation. I think he
20 is entitled to a fair presentence investigation, and
21 at this point, he does not feel that was done.

22 As for the purpose of the entry -- of
23 withdrawing his plea and entering a no contest, that
24 was an option that we had discussed at the -- when we
25 entered his original plea of guilty because he felt he

1 needed some more time, but because of transport
2 reasons, that was my understanding. As you are well
3 aware, he has filed many motions to have his counsel
4 removed and changed, and that things have not gone the
5 way he feels they should have.

6 So at this point, I guess, I don't know what
7 else to say. Those are his arguments for that -- for
8 the purposes of today. Depending on what the Court
9 wants to do, if they decide we need to go forward, we
10 would make an argument for sentencing, but at this
11 time he is asking that a new presentence investigation
12 be done.

13 THE COURT: And as I recall, Ms. Speichert,
14 when your client entered his guilty plea on October
15 2nd of 2007, he was advised that he would have two
16 weeks to reconsider the issue, and if he did not
17 withdraw his plea, then it would be considered a final
18 plea and a presentence investigation would proceed; is
19 that your understanding?

20 MS. SPEICHERT: That's correct. There was a
21 little more time than that because of some other
22 matters that happened right after that, so we had to
23 put everything on hold until we received a notice on
24 some other situations. Once that was done, a letter
25 was sent to him and he responded to me.

1 THE COURT: Mr. Baldwin, whether the Court
2 will accept a no contest plea to a charge is
3 discretionary with the Court. Based upon what I heard
4 today, I am not going to allow you to withdraw your
5 guilty plea and enter a no contest plea.

6 And so I need to know from you at this point
7 whether you are prepared to proceed with sentencing,
8 or whether you wish to entirely withdraw your plea, in
9 which case the County Attorney's Office has advised me
10 that they will be immediately filing an Amended
11 Information charging you with multiple new counts, and
12 the plea agreement which was entered into on October
13 2nd of 2007, would be withdrawn by the County
14 Attorney.

15 THE DEFENDANT: Just continue with the
16 sentencing.

17 THE COURT: Go with the sentencing?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. We will continue then
20 with the sentencing.

21 Ms. Harling, again, for the record, with
22 those new matters in the presentence investigation and
23 deletion of the one deposition, did you have anything
24 further you wanted to put in the presentence
25 investigation?

1 MS. HARLING: No, Your Honor.

2 THE COURT: And Ms. Speichert, you have had a
3 chance to review the presentence investigation?

4 MS. SPEICHERT: I'm sorry. I'm sorry. I
5 didn't hear.

6 THE COURT: You have had a chance to review
7 the presentence investigation both last week and again
8 today?

9 MS. SPEICHERT: Yes, Your Honor.

10 THE COURT: And you also reviewed the search
11 warrant file, CR07-4?

12 MS. SPEICHERT: Yes, Your Honor.

13 THE COURT: Any additions or corrections that
14 you would like to place in the presentence
15 investigation?

16 MS. SPEICHERT: I guess at this time we would
17 just ask that it be modified due to the fact that the
18 information contained involves information concerning
19 a victim that he is not charged with.

20 THE COURT: I'm going to deny the request for
21 a supplemental presentence investigation. Obviously,
22 there were several minors involved in this particular
23 case. I have attempted to extract from the
24 presentence anything that was just allegedly done by
25 the defendant to an alleged victim on the count that

1 was dismissed, but there are overlapping issues here
2 with reference to photographs and situations involving
3 several children, and so I didn't see anything in the
4 presentence investigation that I felt was unfair or
5 biased on the part of the probation officer, Jan
6 Johannsen, so I'm ready to proceed then with
7 sentencing.

8 Ms. Harling, what's the State's
9 recommendation on sentencing?

10 MS. HARLING: Your Honor, on this case I'd
11 ask for a maximum sentence. I'd ask for 50 to 50
12 years in the penitentiary. I'm asking for that
13 because this man destroyed the childhood of his
14 stepson. His stepson, a person who he was supposed to
15 protect, he sexually abused and photographed, and that
16 stepson now bears the burden of that for life. He
17 also bears the burden of the fact that those
18 photographs are out there, and that they were put on
19 the Internet, and that those may come to haunt him for
20 years to come.

21 What I also find terribly concerning is Mr.
22 Baldwin's lack of compassion and lack of
23 accountability for what he did in this case.
24 Throughout, he has not made any efforts to make any
25 apologies to anyone, and he has done irreparable harm

1 to a boy, and he has taken no responsibility for that.
2 And I think anything short of the maximum sentence
3 tells Mr. Baldwin that his behavior was not as
4 horrendous and horrific as it truly was.

5 THE COURT: Thank you, Ms. Harling. Ms.
6 Speichert?

7 MS. SPEICHERT: Well, Your Honor, we would
8 ask the Court to take into consideration the fact that
9 he did save the Court the time and expense of trial
10 and did save the victims the agony of testifying in
11 front of a jury and so forth in this matter.

12 This is the only -- he doesn't have much of a
13 criminal record. There's a couple bad checks and a
14 criminal mischief charge. There's no other felonies.
15 There's no other violent crimes that Mr. Baldwin has
16 committed prior to this incident. There's no other
17 crimes dealing with sexual assault, child abuse or
18 anything of that nature.

19 This was a one-time offense on this. During
20 the time that's presented in the presentence
21 investigation, he had an issue with alcohol. A lot of
22 what happened, he doesn't remember. He understands
23 that this is a serious charge, and that some serious
24 things had occurred and he is willing to take
25 responsibility for that; and that's why he entered his

1 plea, but he also does not remember a lot of what
2 happened; and that's why the situation has been
3 difficult for Mr. Baldwin.

4 And because of the alcoholism that he had
5 suffered for during the time period of these
6 occurring, he would ask the Court to take those things
7 into consideration and not award the maximum sentence,
8 as this is a -- basically, a first offense on any type
9 of sexual assault issue.

10 He is also willing to do any type of therapy,
11 counseling, anything that the Court would order
12 because he -- just like I think everyone in this case
13 -- would like to know why it occurred and why it
14 happened and would like to be able to take
15 responsibility for that so it doesn't ever happen
16 again.

17 THE COURT: Thank you, Ms. Speichert. Mr.
18 Baldwin, you have been found guilty of first degree
19 sexual assault of a child, a Class II felony. Is
20 there anything which you wish to say in your own
21 behalf before I impose sentence?

22 THE DEFENDANT: Just that I am sorry for
23 everything, all the embarrassment, the harm that I
24 have caused everybody in the case, inconveniencing
25 everybody, and I take full responsibility for

1 everything.

2 THE COURT: Mr. Baldwin, the presentence
3 investigation indicates that you are 37 years of age,
4 divorced, one dependent. You do have a high school
5 education.

6 I am giving you credit for the fact that you
7 did enter a plea, which did save the State as well as
8 the victim the time, expense and trauma of testifying
9 in this case.

10 As your attorney has pointed out, you do have
11 a minimal prior record. I see in 1991 a criminal
12 mischief case where you apparently damaged some
13 property. You were placed on probation for that
14 offense. And then in 2004, you had an open container,
15 which resulted in a \$50 fine. That's a fairly minor
16 prior record for most of the people who come before me
17 for sentencing.

18 Mr. Baldwin, you do need to understand that,
19 in the Court's opinion, this is the worst case of
20 child exploitation that I have seen since I have been
21 on the bench, and I have been on the bench for more
22 than 21 years.

23 Not only did you sexually assault your
24 stepson, but by placing those photos onto the
25 Internet, I agree with Ms. Harling that the damage to

1 the victim is irreparable and may come back to haunt
2 the victim for the remainder of his life.

3 It also shows a certain cavalier attitude on
4 your behalf that you viewed this as something that you
5 were doing strictly for your own pleasure or for the
6 pleasure of other people who either enjoy viewing
7 child pornography or enjoy sexually assaulting minors,
8 and this conduct just cannot be tolerated.

9 I'm not going to give you the maximum
10 sentence on the bottom end primarily because of your
11 plea and your lack of prior record, but I agree with
12 Ms. Harling that a top end sentence at the maximum is
13 appropriate under the circumstances.

14 So it would be the judgment of this Court
15 that you be sentenced to the Nebraska Department of
16 Correctional Services for a period of not less than 25
17 nor more than 50 years. I will give you credit for
18 326 days which you have already served. All of that
19 will be eligible for good time, as I did not see any
20 disciplinary reports in the presentence investigation.

21 You will be ordered to register as a
22 convicted sex offender for a period of ten years
23 following your release from incarceration. And
24 because of the lengthy penitentiary sentence, I will
25 find that costs and restitution in this case would be

1 waived.

2 Ms. Harling, you will be preparing the
3 journal. Did you have any questions?

4 MS. HARLING: No, Your Honor.

5 THE COURT: And Ms. Speichert, any questions?

6 MS. SPEICHERT: No, Your Honor.

7 THE COURT: I'll remand the defendant then to
8 the Sheriff's Office for transportation -- I'm not
9 sure whether the defendant goes back into federal
10 custody or is merely transferred to the state
11 penitentiary.

12 And again, I am at this time then turning
13 over to the Clerk the photographs from the deposition,
14 and they will be placed in an envelope in CR07-4 and
15 permanently sealed.

16 (End of proceedings.)

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